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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,768	12/16/2003	Mathilde Benveniste	AVA04-08	5715

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EXAMINER
AHMED, SALMAN

ART UNIT	PAPER NUMBER
2419	

MAIL DATE	DELIVERY MODE
10/24/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/736,768	Applicant(s) BENVENISTE, MATHILDE	
	Examiner SALMAN AHMED	Art Unit 2419	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>14 October 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

  a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

  b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

    Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

  (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

  (b)☐ They raise the issue of new matter (see NOTE below);

  (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

  (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

    NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

  The status of the claim(s) is (or will be) as follows:

  Claim(s) allowed: _____.

  Claim(s) objected to: _____.

  Claim(s) rejected: _____.

  Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Edan Orgad/
Supervisory Patent Examiner, Art Unit 2419

Salman Ahmed
Examiner
Art Unit: 2419

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's arguments, see pages 6-8 of the Remarks section, filed 10/14/2008, with respect to the rejections of the claims have been fully considered and are not persuasive. Applicant argues (page 6 last paragraph) that the Examiner is interpreting the claimed temporal period as both data indicative of a communication interval and a particular time frame; the Examiner cannot interpret a claim so broadly as to read on two different things, and base a rejection on that.

However, Examiner respectfully disagrees with the Applicant's assertion. Examiner submits that "temporal period" is a broad term and in view of the broadest reasonable interpretation of the claim language, the cited prior art does indeed teach the cited limitation. Examiner submits that regarding claim 1, temporal period associated with a schedule is taught by Fulthorp in column 2 lines 61-63, The poll request signal from the remote radio unit contain data indicative of a communications interval (i.e. temporal period) for each of the remote radio units. Examiner further submits that regarding claim 12, temporal period and temporal offset is taught by Fulthorp in column 2 lines 34-43, The poll signal includes a poll response sequence (i.e. temporal offset) indicative of a particular time frame (i.e. temporal period) in which each of the remote radio units will respond to the poll signal (i.e. implicitly the wake-up schedule). As such, Examiner points out that the Applicant is mixing limitations from two different independent claims have different scope and metes and bounds. Regardless, temporal period is interpreted as data indicative of a communications interval which is equivalent to being the poll signal (data) including a poll response sequence indicative of a particular time (interval) frame (interval) in which each of the remote radio units will respond (communication) to the poll signal. They both convey equivalent functionality. Furthermore, as mentioned earlier "temporal period" is a broad term and in response to applicant's argument, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Similarly, Applicant argues (page 6 last pargraph) that Examiner has done the same with respect to the claimed temporal offset, equating the claimed temporal offset as both a "poll sequence" and as a "polling interval".

However, Examiner respectfully disagrees with the Applicant's assertion. "Poll sequence" and as a "polling interval" are used in different context in different independent claims having different limitations, scope and metes and bounds. Specifically, Fulthorp teaches in claim 1, a temporal offset for wake-up schedule (column 10 lines 6-10, the base station 2 will then schedule the remote unit 6 in its TDMA polling interval (i.e. implicitly the wake-up schedule) as often as required (i.e. determining a temporal offset) to meet the service level requested by the remote unit). On the other hand, Fulthorp teaches in claim 12, receiving a temporal offset (column 2 lines 63-67, the base station periodically transmits the poll signal (i.e. positive notice) and the poll sequence (i.e. temporal offset) is altered in each of the periodically transmitted poll signals in response to the communication data interval for each of the plurality of remote radio units). However, despite of "temporal offset" being a broad term, polling interval is indeed equivalent to the poll sequence. The both convey equivalent functionality. Furthermore, as mentioned earlier "temporal offset" is a broad term and in response to applicant's argument, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As such, Examiner respectfully disagrees with the Applicant's assertion that Fulthorp fails to disclose the cited limitations.

In regards to claim 3, Applicant argues that (page 7, last paragraph) the Examiner has failed to explain what the poll list equates to (a wake-up schedule or a polling schedule).

However, Examiner respectfully disagrees with the Applicant's assertion. Fulthorp teaches selecting a value for temporal offset so that the rate of collisions between wake-up schedule and one or more existing schedules is below a threshold (column 10 lines 26-30, Any other remote units 6 that receive the poll, but do not see their ID in the poll list, hold off (i.e. temporal offset) their CSMA transmissions long enough (i.e. threshold) for all of the poll responses to be completed, thereby eliminating any chance for collision). Therefore, Examiner points out that "all of the poll responses" satisfies limitation "one or more existing schedules" or polling schedule and wake-up schedule is satisfied by "hold off their CSMA transmissions (i.e. wake-up schedule)".

Further more, Examiner submits, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "the offset is used to reduce collisions below a threshold value, not eliminate any chance of collision") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). As such claims 1-20 stand rejected.

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